

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

RICKY LEE GILLAND,

Plaintiff,

v.

WILLIAM WEBSTER, COI.,

Defendants.

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2:04-cv-2171-VEH-PWG

MEMORANDUM OF OPINION

This is a civil action pursuant to 42 U.S.C. § 1983 filed by the plaintiff, Ricky Gilland. In his *pro se* complaint, plaintiff names William Webster, Dante Williams and COI Robinson as defendants, and contends they violated his constitutional right to be free from cruel and unusual punishment by failing to protect him. As compensation for the alleged constitutional violation, plaintiff seeks monetary relief.

On November 18, 2005, the magistrate judge entered a report and recommendation, recommending that summary judgment be denied as to the above named defendants. No objections have been filed by either party. Having carefully reviewed and considered *de novo* all the materials in the file, including the report and recommendation, the Court is of the opinion that the magistrate judge's findings of fact and conclusions of law are due to be and are hereby ADOPTED and his recommendation is ACCEPTED. The Court finds that the defendants' motions for summary judgment are due to be DENIED as follows:

1. The Court EXPRESSLY FINDS that there are genuine issues of material fact showing that defendants William Webster, Dante Williams and COI Robinson violated plaintiff's constitutional right to be free from cruel and unusual punishment by failing to protect him. Therefore, defendants

Webster, Williams and Robinson are not entitled to judgment as a matter of law.

An appropriate order will be entered.

DATED this 27th day of February, 2006.

A handwritten signature in black ink, appearing to read "V. Emerson Hopkins", written over a horizontal line.

VIRGINIA EMERSON HOPKINS
United States District Judge